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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,743	07/16/2003	Terrance J. Dishongh	42P7759D	1815

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EXAMINER

LE, THIEN MINH

ART UNIT PAPER NUMBER

2876

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,743

Applicant(s)

DISHONGH ET AL.

Examiner

Thien M. Le

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The information disclosure statement filed on 10/21/2003 and the preliminary amendment filed on 7/16/2003; both have been entered. Claims 1-7 are presented for examination.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3, and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Chu (Chu – 6,279,170).

Chu discloses a label for a garment including an electronic display such as a liquid crystal display for displaying label information. The label information may include a company name or logo that identifies the source of the garment, product information such as the material content of the garment or care instructions, and manufacturer information. The label information can be contained in multiple screen images which can be stepped through by pressing a button or touch-sensitive area of the display. The display can also be programmed to display a series of related images in sequence to produce an animated logo.

As can be seen, Chu discloses a product comprising a label that is electrically modifiable.

Regarding claim 3, Chu discloses that the display elements which are formed by etching a conductive film deposit on the inner surface of each substrate. Etched areas become the display background; unetched areas become the display elements. When a voltage potential is applied, the display elements becomes visible. The display elements can be individually addressed (i.e. their conductive surfaces energized) to selectively activate the display elements. The display panel may be either a monochrome display or a color display. Also, the display panel could be a passive matrix or active matrix display. Chu further discloses in col. 2 lines 55-65 that the display terminal is connected to the circuit board 30 via terminals (not shown) which are viewed by the examiner as contact terminals.

Regarding claim 5, see the discussions regarding claim 1.

Regarding claim 6, see the descriptions of the how to alter the display by application of potential set forth in discussions of claim 3.

Regarding claim 7, Chu discloses that the label information may consist simply of a brand name or logo which identifies the source or origin of the garment. The label information may also include product information such as the material content of the garment and care instructions or manufacturer information.

Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Chenoweth et al. (herein referred as Chenoweth – 6,019,394).

Chenoweth discloses a product label containing information about a merchandise item which can be exchanged with a terminal or server. In its simplest form, the product label includes a memory and a connector coupled to the memory. In another form intended to be inaccessible to a user of the item, it includes a memory, a processor, a transceiver, and a power supply. In yet another form intended to be accessible to a user of the item, it includes a memory, a processor, a transceiver, a power supply, and a display. The product label is permanently affixed to the merchandise item. The stored information may include purchase and exchange information, as well as instructions for use.

According to Chenoweth, the product label 10 is preferably a permanent fixture associated with a product throughout its life. As MFIPL 10 passes through a product's distribution chain, each point in the chain adds or changes data for the product.

Preferably, MFIPL 10 is attached in a location where it does not interfere with normal product use. Furthermore, MFIPL 10 is made of materials which make it durable, but which prevent its presence from being obtrusive to the user of the product. MFIPL 10 is integrated into a product or attached securely enough to a product so that removal without a special tool would cause obvious damage to the product. In addition, MFIPL 10 may be programmed to provide security for the data stored in memory 12.

In a preferred embodiment, the electronic memory contains a permanent record of information about the item which thus would embrace all limitations set forth in this claim.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Turner et al. (herein referred as Turner – 5,689,239).

Turner discloses a programmable electronic label. In the back ground of the invention, Turner discusses the method for testing the programmable electronic label after is it manufactured.

As can be seen, Turner discloses the claimed invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (571) 272-2396. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Le, Thien Minh**  
**Primary Examiner**  
**Art Unit 2876**  
**July 29, 2004**